

# **DECISION NOTICE**

For

## **Proposed Lincoln Ranch Acquisition** Region 4 Habitat Montana Proposed Land Project



*Montana Fish, Wildlife & Parks  
4600 Giant Springs Road, Great Falls, MT 59405*

**July 16, 2008**

### **BACKGROUND, DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES**

Montana Fish, Wildlife & Parks (FWP) proposes the acquisition of 7,540 acres of important wildlife habitat along the Marias River. The property straddles 14 miles of the Marias River approximately 8 miles southwest of Shelby and 70 miles northwest of Great Falls. The property is currently operated as a private ranch, consisting of 7,540 deeded acres, 492 acres of leased State School Trust (SST) lands managed by Montana Department of Natural Resources and Conservation (DNRC), and 833 U.S. Bureau of Land Management (BLM) acres. Important wildlife habitats that exist on these lands include riparian river bottom, cottonwood gallery forest, sagebrush grassland, and river breaks.

The property would be purchased through a combination of funding sources, potentially including FWP's Habitat Montana program and the Governor's Access Montana Initiative approved by the 2007 Legislature. FWP, by virtue of the right of first refusal as granted in the Will of Charlie Lincoln upon sale of the Ranch, will use that right to acquire the property through fee-title purchase of the deeded acres. The leases of BLM and DNRC acres within the boundary of the property that are now held by the current landowner will be transferred to FWP.

The scope of this Environmental Assessment (EA) primarily covers the acquisition of the property. Future significant management/development activities will be addressed by subsequent EAs.

In proposing to acquire the Lincoln Ranch, FWP seeks to meet the following needs:

- Protect and enhance riparian, sagebrush grasslands, and cottonwood gallery habitats;
- Protect in perpetuity 14 miles of the Marias River and its water-borne resources;
- Manage wildlife and fisheries habitat in a sustainable manner to support priority fish and wildlife species;

- Propose reestablishment of fish species native to the Marias River;
- Provide public access to over 10,700 acres of continuous habitat that is currently inaccessible for recreational uses;
- Provide opportunity and access for public hunting, fishing, wildlife viewing, hiking, non-motorized boating, and opportunity for other public recreational users;
- Protect wildlife habitat and fisheries resource from incompatible land uses or development and potentially loss of public access to those resources;
- Promote a river and ground based state park that provides multiple levels and options of recreational opportunities;
- Develop and provide educational interpretive programs that promote and inspire responsible outdoor recreation, preservation of important natural and cultural resources, and appreciation of park values;
- Promote tourism through recreation opportunities that will benefit local communities;
- Identify and preserve important cultural, heritage, geologic, and paleontologic resources;
- Manage as a cooperative and combined WMA and State Park.

### **Alternative A – Proposed Action:**

FWP proposes to acquire 7,540 acres of important wildlife habitat along the Marias River as described in this EA. Through the Proposed Action, FWP would secure permanent public access to this land, as well as to an additional 1,840 acres of difficult-to-access, adjacent public lands (BLM, DNRC lands), and including approximately 14 miles of Marias River shoreline. This project would conserve animal and plant species biodiversity and important wildlife habitat that exists on these lands, including riparian, sagebrush grasslands and cottonwood gallery forest. Also conserved and ultimately made available to the public will be recreational opportunities associated with these habitats, the river system and the opportunity for interpretation of historic, cultural and natural resources.

### **Alternative B – No Action:**

Under the No Action alternative, FWP would forgo the opportunity to purchase the Lincoln Ranch. There would continue to be no or little public access to the property for recreation, and land access to approximately 1,840 acres of adjoining BLM and DNRC lands could not be guaranteed. It is possible that under the No Action alternative this property will be subdivided and developed for rural homesites, with significant adverse impacts to natural habitats or privatized for recreational uses.

### **Alternatives C – Third Party Purchase with a FWP Conservation Easement:**

Other private parties have expressed interest in this property. If the fee title purchase price of the property exceeds FWP's financial resources, FWP will investigate the

possibility of collaboratively purchasing a conservation easement with the new owners provided interests of both parties could be met. Alternatively, FWP may acquire fee ownership and then trade portions of the property to a private party while reserving conservation and public access easement(s) that meet or exceed its conservation and public access goals. FWP has established a long, effective and consistent track record of working with private landowners to protect and enhance important wildlife habitats while simultaneously maintaining private operating and productive ranches on the Montana landscape. If suitable terms of protection and use can be negotiated, it is conceivable that passage of the Lincoln Ranch into private ownership can be facilitated while simultaneously protecting important resource and recreational values on the property. Provisions of the Lincoln Will do not directly allow for or direct such an effort. Any such effort and result will be at the consent of the new private landowner.

## **PUBLIC COMMENT**

In compliance with Montana Environmental Policy Act (MEPA), FWP completed an EA with a subsequent public involvement process. Public participation is not a plebiscite to measure those in favor of or opposed to a proposal, but is a mechanism for agencies to consider substantive comments.

The public comment period for this EA opened on June 19, 2008. The proposed acquisition was featured in news articles done by the Great Falls Tribune staff covering the proposed purchase, as well as the unique nature of the Charlie Lincoln Will wherein a right of first refusal for purchase of the Ranch was granted. Those news stories ran during the course of the last calendar year. FWP issued news releases to all regional media and the Associated Press on June 19, 2008 of the publication of this Environmental Assessment. A public meeting was held on July 7, 2008 in Shelby, MT to answer questions and collect oral and written comments. Hard copies of the EA were available to all who attended the meeting. The comment period ended July 10, 2008. The draft EA was available on the FWP website under Public Notices ([www.fwp.mt.gov](http://www.fwp.mt.gov) <<http://www.fwp.mt.gov>>), or by calling (406) 454-5840. A hard copy of the EA was available at the Region 4 Headquarters (4600 Giant Springs Road, Great Falls, MT). The draft EA was mailed to over 80 entities reflecting the interest from local, state and federal agencies, non-government organizations, local legislators, local and immediately adjacent landowners, county commissioners and private parties who had previously expressed an interest..

Face-to-face meetings were held with two neighboring landowners. Written comments were received from 35 individuals or parties. Oral comments were recorded from three individuals at the public hearing for which 34 individuals attended. Phone calls were received from two individuals.

This Decision Notice addresses several concerns and issues raised during the public input process, and modifications have also been made to a Preliminary Management Plan. It is important to note that this EA covers only the acquisition of the property and initial management actions. Any substantial changes in future management, including

establishing campgrounds, will be subject to additional environmental analysis and public comment.

Our responses to public inquiries or concerns are summarized below. The Environmental Assessment can be found at the FWP website.

## **DECISION**

The trend toward the sale of traditional ranching/farming to recreational buyers or interests focused on subdivision of key wildlife habitats has accelerated recently. Purchase of the Lincoln Ranch will maintain this property in open space while providing for public enjoyment of this landscape and the river system that flows through it. Given the increasingly high value placed on Marias River recreational properties, if this property is not purchased by FWP, it is likely that either subdivision or exclusive access interests will acquire the Lincoln Ranch, and opportunities for habitat protection and public enjoyment of this landscape could be lost.

After review of this proposal and addressing concerns of local residents and landowners, as well as considering the significant public support for this project, it is my recommendation to acquire the property known as the Lincoln Ranch from the Helena Catholic Diocese subject to approval by the FWP Commission and the State Land Board. As such, I recommend Alternative A - Proposed Action, as identified in the EA. Through the Proposed Action, FWP would secure public access to 10,700 acres on this property (7, 540 acres in fee-title, 1,325 acres of DNRC and BLM leases), as well as to an additional 1,835 acres of difficult-to-access, adjacent public lands (BLM, DNRC lands), and approximately 14 miles of Marias River shoreline. The project will conserve animal and plant species biodiversity and important wildlife habitat that exists on these lands, including riparian, sagebrush grasslands and cottonwood gallery forest. Recreational opportunities associated with these habitats, the river system and the opportunity for interpretation of historic, cultural and natural resources will be preserved.

The draft version of the EA, this Decision Notice, and the Preliminary Management Plan serve as the final documents addressing this proposal.

/s/  
Gary Bertellotti  
Regional Supervisor  
Great Falls, MT

July 16, 2008  
DATE

## **RESPONSE TO PUBLIC COMMENTS**

Public comments have been summarized into various issues that reflect the public comments received, and are presented along with FWP responses. Changes or additions to the Preliminary Management Plan, in response to public comment, are also indicated in the FWP responses. The EA can also be found on FWP's website ([www.fwp.mt.gov](http://www.fwp.mt.gov)) under public notices.

Written comments were received from 33 individuals and/or parties. Three individuals provided oral comments at the public meeting, 34 individuals attended the public meeting, and phone calls were received from two parties. Individual meetings were also held with two parties of adjacent landowners.

### **IN SUPPORT OF PREFERRED ALTERNATIVE**

*We are supportive of FWP following the Preferred Alternative, and continuing negotiations to acquire the Lincoln Ranch.*

FWP agrees that the Lincoln Ranch, located 8 miles southwest of Shelby along the Marias River, represents a significant land acquisition opportunity for wildlife habitat, public recreation and the preservation of cultural, historic and natural resources. The proposed purchase is intended to protect and enhance important wildlife habitat, including nearly 14 miles of Marias River shoreline, from subdivision or development, and to provide recreational access to more than 10,700 acres of contiguous public land and habitat. Emphasis on the river related recreational opportunities for fishing, floating and boat camping will be made.

### **STATE SCHOOL TRUST LANDS**

*How will the proposed acquisition affect the School State Trust lands (referred to as DNRC lands in the EA) within the parcel? Will the Trust be losing money?*

A clarification of DNRC/State School Trust lands as referenced in the EA is in order. State School Trust (SST) lands are administered by the Montana Department of Natural Resources and Conservation (DNRC). But SST lands are separate from other state-owned lands in that the primary purpose of such lands is to raise revenue for the Montana public school system. Any references to SST lands as "DNRC lands" in the EA were inadvertent and not intended to convey any inferences about the nature or purpose of these lands.

Leasing procedures for SST lands, managed by DNRC, can be found in Title 77, Chapter 6, of the Montana Code Annotated. With purchase of the Lincoln Ranch, DNRC would assign the included SST lands (492 acres in T31N, R3W, portions S16,17,18,19 & 20) to FWP for the balance of the 10-year lease currently in place. Additionally, if FWP grazes the SST lands with livestock during the current lease period, the lease will remain a grazing lease when it comes up for bid. If the SST lands are not grazed by livestock during the remainder of the current lease, when it is re-bid the lease will be changed to recreational status with a likely increased lease fee.

#### **DETAIL WITHIN THE PRELIMINARY MANAGEMENT PLAN**

*The EA lacks details on how the property will be managed. How does FWP intend to manage the many recreation-days it anticipates, consumptive and non-consumptive users, and still ensure quality game hunting and recreational opportunities?*

FWP acknowledges the public desire for more detail as contained in the attached Preliminary Management Plan, and has updated that Plan to reflect these concerns and interests. FWP will consider additional management guidelines in the event that conflicts between users and/or surrounding landowners develop over time.

It is important to note that the EA and the Preliminary Management Plan are separate documents developed for discrete purposes. The EA is designed to engage public participation, whereas the Preliminary Management Plan will be an evolving document that FWP will use to guide management of the property. Any substantial change from the actions identified within the EA (e.g. development of a campsite) would warrant an additional EA, and re-engagement of the public. It is the Departments commitment that within a period of the next two years, the public will again be engaged by a formal process to solicit input and ideas for finalization of a Management Plan.

#### **UNLIMITED PUBLIC USE**

*The EA implies that this property will provide abundant recreation-days and will be open to the public 24-7. Has FWP considered the impacts this will have in terms of: enforcement, road management (dust, noise, increased traffic), off-road vehicles, fire danger, impacts to wildlife, dispersal of game onto private lands, litter, weed management, public safety, fencing, etc? FWP should have someone on staff 24-7 on the property.*

FWP acknowledges these concerns. In response to the concerns over 'unlimited public use', FWP will update the Management Plan to provide more controlled access to the site, e.g. regulated access for hunting purposes, voluntary registration procedures for floaters, until operations funding and staffing allow otherwise. Please see the attached Preliminary Management Plan for additional strategies designed to balance the number of users, the quality of the recreation experience, and to reduce impacts on neighboring ranches.

#### **ROAD MANAGEMENT**

*How will Fish, Wildlife & Parks address road management given the suggested increase in traffic in the area? Has FWP discussed this with Pondera and/or Toole Counties?*

FWP has yet to engage Toole or Pondera County officials. The road leading to the Lincoln homestead is an obvious choice for public entry to the property. It is the only publicly maintained and improved access point into the Ranch. FWP will work with the County and adjacent private property owners to improve signage in the area and physically manage traffic flow, location and safety.

Motorized travel within the Lincoln Ranch property beyond the point of entry will not be permitted. Only non-motorized traffic will be allowed off of this designated travel routes. Please see the Preliminary Management Plan for additional strategies

Road Dust - FWP is sensitive to the possibility of increased road dust levels in areas along primary access road to the property. In order to mitigate this problem FWP would implement the following actions:

- Work with Toole County to ensure that appropriate speed limits are posted and enforced on the primary access road into the site.
- Consider applying dust abatement solution (magnesium chloride/lignun) to the primary access road into the property.
- Look at long term solutions with local land owners, county and state.

#### **LITTER AND VANDALISM**

*With the public availability of the property more visitors and people will be using the property. As they travel to, use and exit the property litter and vandalism will become more pronounced then is currently occurring.*

FWP is sensitive to the possibility for littering on and access point(s) to and from the State Park/WMA. In order to mitigate this problem, FWP would implement the following actions:

##### **LITTER**

- Strongly promote Leave no Trace outdoor ethics through education and outreach programs.
- Implement a pack it in – pack it out policy on the undeveloped portions of the property.
- Provide garbage receptacles in the primary visitor use and campground areas.
- Aggressively enforce and prosecute littering laws.
- Park and WMA staff and volunteers will routinely police up litter on the property and along the primary access road.

FWP is aware and sensitive to the problems and costs associated with vandalism. In order to minimize and/or mitigate for vandalism problems FWP would implement the following actions:

##### **VANDALISM**

- Staff and volunteers will conduct routine patrols.
- Aggressive enforcement and prosecution of vandalism violations.

## **FIRE MANAGEMENT**

*This area is prone to fire danger. The EA has not addressed how fire threats will be addressed? Will the WMA be closed during periods of high fire danger? Has FWP been in contact with Pondera and Toole Counties? What is FWP's liability in the event of a fire on the WMA and/or State Park?*

- FWP is sensitive to the possibility of human and/or natural caused wildland fires starting in the Park/WMA and spreading to adjacent private lands. In order to mitigate this problem FWP would implement the following actions:

- Implement and enforce campfire regulations that restrict fires to designated steel fire grates in official camping and picnic areas only.
- Impose appropriate fire hazard restrictions consistent with surrounding jurisdictions as conditions warrant.
- Work closely and cooperatively with local, County, and State SST / DNRC fire suppression programs to ensure adequate wildland fire response capabilities on the property.
- Implement hazard fuel reduction and fire-break construction on an as needed basis, use of a grazing program to reduce fuels, and provide training to staff for both prevention and initial response.

FWP properties that are not covered under direct fire protection by a wildland agency are covered by the county under a cooperative agreement with the state. The county agrees to provide protection to all non-forest district state properties in exchange for the state providing the county with training, equipment, and some planning assistance. FWP makes payments in lieu of taxes (PILT) to counties on all FWP properties except State Parks, Fish Hatcheries, Bird Farms, and in counties where FWP owns less than 100 acres. The state also agrees to assist the county.

During the fire season, FWP attends weekly fire conferences with County, State, and Federal entities to discuss the current fire danger and assess appropriate actions relative to potential fire restrictions. These restrictions may include closure of the site to public use.

Standard fire protections/restrictions will apply to all picnic/camping areas. Camping will only occur within designated and established camping locations that are specially 'hardened' to accommodate safe public use. Please see the Preliminary Management Plan for more detail.

The following statute covers liability issues:

MCA 50-63-103. Liability of offender for damages and costs. A person who sets or leaves a fire that spreads and damages or destroys property of any kind not belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses



incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing the spread of the fire.

## **ENFORCEMENT**

*How will FWP ensure that the property and the neighbors are not subjected to trespass, crime and vandalism?*

The Region 4 Enforcement Division has field wardens, ex-officio wardens, a warden sergeant and a warden captain that proactively patrol and are available for call-out.

The law enforcement officers from the Region 4 Enforcement Division staff regularly communicate and work with the County Sheriff's Offices. The Counties have historically been responsive to Fish, Wildlife, and Parks enforcement concerns; both proactively and when immediate warden responses are unavailable.

While FWP wardens have law enforcement responsibilities on a broad landscape, FWP lands, Block Management Areas, and areas that concentrate the recreational public receive an increased department and law enforcement presence.

## **TRESPASS**

FWP is highly sensitive to the possibility of visitors trespassing onto adjacent private lands or trespass through private land to access the State Park/WMA. In order to minimize and mitigate this problem FWP would implement the following actions:

- Fencing and signing of the Park/WMA's external boundaries.
- Aggressively enforce and prosecute trespass violations.
- Have periodic and strategic law enforcement presence on site to deter and to patrol for trespass activity.

## **CURRENT STATE OF PROPERTY**

*The EA misleads the reader to presume that this property is pristine. What will happen to the on-site buildings? The EA does not reflect the cultural and historic presence of native peoples nor early settlers.*

The current owner has leased out grazing rights on deeded acres with no formal grazing scheme assigned. All habitats reflect continuous livestock grazing patterns to the detriment of vegetation condition and class. No cross-fencing exists within the property, thus making livestock handling and distribution a challenge. Exterior fencing (of which there is an estimated 25 miles) varies in condition from almost new to in-need-of-repair to entirely absent. Fencing needs will be evaluated and problem areas will be addressed as needed and in consultation with and participation from adjacent landowner(s).

As a State Park and Wildlife Management Area, opportunities will be explored in the future to discover, document and interpret the historical presence of all peoples on the landscape as represented by this property. Further investigation and documentation of the 5 buildings (Mr. Lincoln's house and associated outbuildings) remaining on the

property will be undertaken. Their historic value will be considered and further plans for their preservation and/or disposal will be made according to State Preservation standards.

#### **WEED MANAGEMENT**

*The EA does not adequately identify the extent of weeds (in particular leafy spurge), nor how FWP plans to address management of weeds to ensure that weeds are not spread to neighboring properties.*

Weeds will be managed under the auspices of the Statewide Integrated Noxious Weed Management Plan. The plan guides the agency's annual \$600,000 noxious weed management program. FWP's noxious weed management efforts target exotic plant species capable of harming native plant communities and making land unfit for agriculture, forestry, livestock, wildlife, and other beneficial uses. Noxious weeds are generally identified by the Montana Department of Agriculture and Montana Noxious Weed List Advisory Committee.

Currently, the property has an expansive infestation of leafy spurge along the Marias River bottomlands. Russian and spotted knapweed are also noted as having broad distribution across the property. If the Proposed Action is selected, and a successful sale completed, FWP would assess the property for weeds, and initiate an integrated weed management plan. Weed management will involve using techniques that will have minimal impacts to fish and wildlife habitat will be used. These could include chemical, mechanical and/or biological means of control and management.

#### **COST OF MANAGEMENT / TAXES**

*The EA has not addressed how management of the property will be funded, nor does it adequately address how expensive managing property of this size may become. Tax revenues for county must not be diminished and County Commissioners request that taxes generated from the property are not lost if property becomes publicly owned.*

FWP currently manages 71 Wildlife Management Areas, and the Parks system consists of 51 State Parks, 12 affiliated lands, and approximately 316 fishing access sites. This experience combined with a commitment to secure adequate funding for management by the Wildlife and Parks Divisions within FWP will ensure that the property is maintained in the desired (and improved) condition, and that well regulated recreational opportunities are abundant. The Lincoln Ranch will be a high priority for Wildlife and Parks additional funding in the upcoming biennium (starting July 1, 2008).

On Wildlife Management Areas, FWP makes payments in lieu of taxes (PILT) to local governments for special improvement districts (SIDs) and other lands, at a rate equal to what a private landowner would pay in traditional property taxes. FWP makes such payments when total holdings of Wildlife Management Areas and Fishing Access Sites in a county exceed 100 acres, which is the case in Toole and Pondera Counties. FWP

does not make payments for State Parks (or those acres so identified), and affiliated Parks lands, most office buildings, or fish hatcheries.